

§ 970.13

(3) HUD will not process an application for disposition unless the PHA provides HUD with one of the following:

(i) An official board resolution or its equivalent from each established eligible organization stating that such organization has received the PHA offer, and that it understands the offer and waives its opportunity to purchase the project, or portion of the project, covered by the disposition application;

(ii) A certification from the executive director or board of commissioners of the PHA that the 30-day time frame to express interest has expired and no response was received to its offer; or

(iii) A certification from the executive director or board of commissioners of the PHA with supporting documentation that the offer was otherwise rejected.

§ 970.13 Environmental review requirements.

(a) Activities under this part (including de minimis demolition pursuant to § 970.27) are subject to HUD environmental regulations in 24 CFR part 58. However, HUD may make a finding in accordance with 24 CFR 58.11(d) of this title and may itself perform the environmental review under the provisions of 24 CFR part 50 if a PHA objects in writing to the responsible entity performing the review under 24 CFR part 58.

(b) The environmental review is limited to the demolition or disposition action and any known re-use, and is not required for any unknown future re-use. Factors that indicate that the future site reuse can reasonably be considered to be known include the following:

(1) Private, Federal, state, or local funding for the site reuse has been committed;

(2) A grant application involving the site has been filed with the Federal government or a state or local unit of government;

(3) The Federal government or a state or unit of local government has made a commitment to take an action, including a physical action, that will facilitate a particular reuse of the site; and

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(4) Architectural, engineering, or design plans for the reuse exist that go beyond preliminary stages.

(c) In the case of a demolition or disposition made necessary by a disaster that the President has declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.*, or a disaster that has been declared under state law by the officer or entity with legal authority to make such declaration, pursuant to 24 CFR 50.43 and 24 CFR 58.33, the provisions of 40 CFR 1506.11 will apply.

§ 970.15 Specific criteria for HUD approval of demolition requests.

(a) In addition to other applicable requirements of this part, HUD will approve an application for demolition upon the PHA's certification that it meets the following statutory criteria, unless the application meets the criteria for disapproval under 24 CFR 970.29. An application for the demolition of all or a portion of a public housing project must certify that the project:

(1) Is obsolete as to physical condition, location, or other factors, making it unsuitable for housing purposes, and no reasonable program of modifications is cost-effective to return the public housing project or portion of the project to useful life; and

(2) In the case of an application for demolition of a portion of a project, the demolition will help to ensure the viability of the remaining portion of the project.

(b) As to paragraph (a)(1) of this section:

(1) Major problems indicative of obsolescence are:

(i) As to physical condition: Structural deficiencies that cannot be corrected in a cost-effective manner (settlement of earth below the building caused by inadequate structural fills, faulty structural design, or settlement of floors), or other design or site problems (severe erosion or flooding);

(ii) As to location: physical deterioration of the neighborhood; change from residential to industrial or commercial development; or environmental conditions as determined by HUD environmental review in accord with 24

CFR part 50, which jeopardize the suitability of the site or a portion of the site and its housing structures for residential use; or

(iii) There are other factors that have seriously affected the marketability, usefulness, or management of the property.

(2) HUD generally shall not consider a program of modifications to be cost-effective if the costs of such program exceed 62.5 percent of total development cost (TDC) for elevator structures and 57.14 percent of TDC for all other types of structures in effect at the time the application is submitted to HUD.

(c) As to paragraph (a)(2) of this section, a partial demolition will be considered to ensure the viability of the remaining portion if the application certifies that the demolition will reduce development density to permit better access by emergency, fire, or rescue services, or improve marketability by reducing the density to that of the neighborhood or other developments in the PHA's inventory.

[71 FR 62362, Oct. 24, 2006, as amended at 73 FR 3868, Jan. 23, 2008]

§ 970.17 Specific criteria for HUD approval of disposition requests.

In addition to other applicable requirements of this part, HUD will approve a request for disposition by sale or other transfer of a public housing project or other real property if the PHA certifies that the retention of the property is not in the best interests of the residents or the PHA for at least one of the following reasons, unless information available to HUD is inconsistent with the certification:

(a) Conditions in the area surrounding the project (density, or industrial or commercial development) adversely affect the health or safety of the tenants or the feasible operation of the project by the PHA;

(b) Disposition allows the acquisition, development, or rehabilitation of other properties that will be more efficiently or effectively operated as low-income housing developments;

(c) The PHA has otherwise determined the disposition to be appropriate for reasons that are consistent with the goals of the PHA and the PHA Plan

and that are otherwise consistent with the Act;

(d) In the case of disposition of property other than dwelling units (community facilities or vacant land), the PHA certifies that:

(1) The non-dwelling facilities or land exceeds the needs of the development (after DOFA); or

(2) The disposition of the property is incidental to, or does not interfere with, continued operation of the remaining portion of the development.

§ 970.19 Disposition of property; use of proceeds.

(a) Where HUD approves the disposition of real property of a development, in whole or in part, the PHA shall dispose of the property promptly for not less than fair market value (in which case there is no showing of commensurate public benefit required), unless HUD authorizes negotiated sale for reasons found to be in the best interests of the PHA or the federal government; or dispose of the property for sale for less than fair market value (where permitted by state law), based on commensurate public benefits to the community, the PHA, or the federal government justifying such an exception. General public improvements, such as streets and bridges, do not qualify as commensurate public benefits.

(b) A PHA may pay the reasonable costs of disposition, and of relocation of displaced tenants allowable under § 970.21, out of the gross proceeds, as approved by HUD.

(c) To obtain an estimate of the fair market value before the property is advertised for bid, the PHA shall have one independent appraisal performed on the property proposed for disposition, unless HUD determines that:

(1) More than one appraisal is warranted; or

(2) Another method of valuation is clearly sufficient and the expense of an independent appraisal is unjustified because of the limited nature of the property interest involved or other available data.

(d) To obtain an estimate of the fair market value when a property is not publicly advertised for bid, HUD may accept a reasonable valuation of the property.